

REMARKS

Claims 1, 3-17, 19-33 and 35-52 are pending. Withdrawn claims 49-52 have been cancelled. No claims have been amended or added.

I. Provisional Rejections

Claims 1, 3-17, 19-33 and 35-48 were provisionally rejected based on obviousness type double patenting as being unpatentable over claims 1-28 of copending U.S. Patent Publication No. 2005/0027327, and over claims 1-30 of copending U.S. Patent Publication No. 2005/0027326. Since these rejections are provisional, they are not addressed at this time.

II. Rejections Under 35 USC § 103

Claims 1, 3-17, 19-33 and 35-48 were rejected under 35 USC § 103(a) as unpatentable over U.S. Pat. No. 5,769,671 to Lim (Lim) in view of U.S. Pat. No. 5,769,671 to Anscher, et al. (Anscher). This rejection is respectfully traversed for the following three reasons.

Lim indisputably fails to teach or suggest all limitations of independent claims 1, 17 and 33 directed to a connector assembly for detachably connecting a lead to an implantable medical device. In the Office action, it is conceded that Lim fails to disclose a connector assembly that includes a clip having two arms, the end of the first arm and the end of the second arm being offset and partially overlapping when the clip is in a first position.

Although not mentioned in the Office Action, Lim also clearly lacks the teaching that the first arm and the second arm are partially spread apart so that the ends are non-overlapping and aligned so that the first end abuts the second end and the first side wall is not adjacent to and engaged against the second side wall when the connector clip is in the second position within the housing as required by all claims.

In Lim, the free ends of the connector clip remain spaced from one another while the clip is located within its housing, as expressly set forth in Column 4, lines 24 – 33.

The Office Action argues that it would have been obvious to “modify the free ends of a the clip of Lim to overlap as taught by Anscher, et al. in order to provide the predictable results of support and reinforcement.” See Office Action, page 8, paragraph 2. The Applicants submit that it would not be obvious to modify Lim in view of Anscher and thereby arrive at independent claim 1, 17 or 33.

Both the clip in the Lim patent and that of the present invention as claimed comprise a “connector clip being oriented perpendicular to the insertion axis of orientation of the proximal end of a lead such that the arms, the non-overlapping ends of the arms, and the top portion together circumscribe an opening through which the proximal end of a lead passes during insertion”. This is the same argument, with minor changes, that was previously advanced with regard to the paper clip as prior.

The new rejection is respectfully asserted to be improper for at least the same reasons as the now withdrawn rejection based upon the Darby reference and the paper clip. The arguments that follow therefore will be familiar to the Examiner.

Like Darby and the paper clip, In use the Anscher clip defines an opening parallel to the path along which the cable it connects is inserted. Its operational mechanism is thus directly contrary to that required by the claims.

It is respectfully asserted that modifying the Lim clip in light of a clip which works using entirely different mechanism from the Lim clip cannot be properly argued to be obvious. The overlapping ends of the Anscher, et al. clip are specifically designed useful in a context other than that of the presently claimed invention, and offer no obvious benefits or improvement relative to the Lim clip.

The Examiner again takes the position that such a modification is obvious because "it was known in the art that overlapping the free ends of a clip provide the predictable results of reinforcement and support for engaging a lead." This argument, however, does not appear to be directed toward any limitation of the present claims or even to the invention as disclosed in the present specification. The ends of the Lim clip do not even engage the lead when inserted therethrough. Merely making them overlap as in the presently claimed invention would not change this basic fact. Indeed in the clip of the present invention the overlapping ends similarly do not contact, support or reinforce the lead when inserted. How can modifying the Lim clip as argued by the Examiner obviously produce "the predictable results of reinforcement and support for engaging a lead" when the invention as claimed does not even produce this result?

Because the benefits argued to make the proposed modification of Lim obvious aren't present in Lim as modified and aren't even found in the present invention, the Examiner's proposed modification cannot possibly predict such results. It is therefore respectfully asserted that the only source for a suggestion to modify Lim as proposed by the Examiner or for any benefit thereof must be found in the present application.

For exactly the same reason that the proposed combinations of Lim with Darby or the paper clip did not support the previous obviousness rejection, the combination of Lim and Anscher does not support the present obviousness rejection.

Withdrawal of the rejection of all remaining claims over Lim and Anscher is respectfully requested for this first reason.

In addition, as noted above, the Office Action does not even mention the requirement that the first arm and the second arm are partially spread apart so that the ends are non-overlapping and aligned so that the first end abuts the second end and the first side wall is not adjacent to and engaged against the second side wall when the connector clip is in the second position within the

housing as required by all claims. This missing teaching is also not present in Anscher or suggested by it. Like the clip in Lim, the overlapping free ends of the clip in Anscher are not disclosed as abutting one another when located in a housing. The Anscher clip isn't even disclosed as locatable within a housing. If the Anscher clip were located in a housing of the type employed in Lim, the intended path of access of the cable (from the side) would be blocked, defeating the basic purpose of the Anscher clip, which is to engage cables in regions far removed from their ends.

Withdrawal of the rejection of all remaining claims over Lim and Anscher is respectfully requested for this second reason as well.

Further, Anscher discloses two embodiments, one intended to engage a single cable, the other intended to engage multiple cables. While neither situation is directly analogous to that of the present invention, the embodiment directed to engaging a single cable or tube comes closest. This is the embodiment illustrated in Figures 2 and 3, which has non-overlapping ends. The embodiment cited by the examiner, and in particular its overlapping ends, are disclosed specifically as directed to holding multiple cables or tubes. To the extent Anscher is arguably relevant to the question of engaging a single cylindrical member, as in the present invention and in Lim, it teaches non-overlapping ends. As such, Anscher teaches directly away from the change to Lim proposed by the Examiner and thus directly away from the claimed invention.

Withdrawal of the rejection of all remaining claims over Lim and Anscher is respectfully requested for this third reason as well.

III. Conclusion

In view of the above, Applicants respectfully request reconsideration and withdrawal of the above rejection of claims 1, 3-17, 19-33 and 35-48 under 35 U.S.C. § 103(a).

Presumably the Examiner has finished with all of the searching she is going to do. It is respectfully asserted that the time has come to allow this application to issue. The time and expense associated with an additional appeal brief is respectfully asserted to be unjustified. Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone Reed Duthler at (763) 526-1564 to attend to these matters. In addition, all correspondence should continue to be directed to the following address:

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Respectfully submitted,

Date: April 15, 2010

/Reed A. Duthler/
Reed A. Duthler
Reg. No. 30,626
Telephone: (763) 526-1564
Customer No. 27581